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Human rights situation in Palestine and other occupied Arab territories

Joint written statement* submitted by the Cairo Institute for Human Rights Studies, Al Mezan Centre for Human Rights, Al-Haq, Law in the Service of Man, BADIL Resource Center for Palestinian Residency and Refugee Rights, Medical Aid for Palestinians (MAP), non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Immediate action needed to guarantee accountability: Israel's persistent impunity is the root cause to the continuing deterioration of human rights in the OPT*

As human rights organizations working for the promotion of human rights in the OPT, we would like to express our deep concern regarding the persistence of Israeli impunity, amid continuing deterioration to the human rights situation of Palestinians. Israel's systematic policies and practices against the Palestinians continue to lead to serious violations of preemptory norms of international law, grave breaches of International Humanitarian Law, and the complete disregard to International Human Rights Law norms and standards.

In the coming days, Palestinians will commemorate the 48th Anniversary of the longest system of Military Occupation known in recent history. The number 48 reminds Palestinians of the collective dispossessions and forcible displacement from their ancestral home in 1948. From 1948 onwards, the Palestinian people have been unceasingly victims to international crimes, while deprived of adequate means to seek justice and remedies. The domestic Israeli legal system continues to substantially not adhere to the international law requirements, thus not only denying Palestinians accountability, but also providing the green light for consecutive Israeli governments to commit the same patterns of violations against Palestinians.

Israel's continuous separation and fragmentation policies that are carried out by the blockade of Gaza, construction of the settlements infrastructure and the Separation Wall in the West Bank, including East Jerusalem, is a serious and continuous attack on Palestinian self-determination. The failure of the international community to stand to its legal obligations and ensure the implementation of effective measures for accountability contributes to the continuous commission of these violations.

July 2015 marks the first anniversary of Operation "Protective Edge" in the Gaza Strip which is to date the deadliest since the beginning of the Israeli occupation. According to Palestinian organizations figures[1], a total of 2,221 Palestinians, including 1,639 civilians, were killed, 11,231 Palestinians were injured. Including the deaths of 556 Palestinian children among the killed in Gaza, 535 of them as a direct result of Israeli attacks.[2] Nearly 68 percent of the children killed by Israeli forces were 12 years old or younger. During the attacks, Israel clearly ignored the principles of distinction, proportionality and precaution in attack under IHL.

Having lived through three wars in six years, and a suffocating 8 years blockade, the civilian population of the Gaza Strip has experienced extreme mental and physical trauma for which the health sector is woefully unequipped to assist. During Israel's recent military invasion of Gaza 17 hospitals, 56 clinics, and 45 ambulances were attacked including the complete demolition of the only rehabilitation hospital in Gaza, the Al Wafa hospital3. Israel's deliberate attacks on hospitals and the medical infrastructure in Gaza amounts to a gross violation of IHL as well as the possibility of amounting to war crimes. These targeted attacks further restrict the already limited availability of medical services in Gaza.

The failure of the international community to fulfill pledges and push for the effective reconstruction of health infrastructure has meant that many have been unable to receive proper surgical or rehabilitation services, exacerbating existing injuries and in some cases leading to otherwise avoidable life-long physical disabilities.

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[1] Al-Haq report, divide and conquer : a legal analysis of Israel's 2014 military offensive against the Gaza Strip, 2015 Available at: http://www.alhaq.org/publications/DIVIDE-AND-CONQUER.pdf

[2] *Ibid*

[3] Health cluster in the OPT, Gaza Joint Health Sector Assessment Report, Gaza, September 2014, available at http://www.emro.who.int/images/stories/palestine/documents/Joint_Health_Sector_Assessment_Report_Gaza_Sept_2014-final.pdf

The Gaza Strip also witnessed the highest rate of internal displacement since 1967, as a result of the Israeli military operation. Almost 500,000 people, 28% of the population, were internally displaced at the height of hostilities in UNRWA schools, government and informal shelters, and with host families. As of January 2015, more than 100,000, whose homes were severely damaged or destroyed remained displaced. [4]

Israel's practice of forced displacement and punitive home demolitions extends from the Gaza Strip to Palestinians in the West Bank. Forced displacement in the West Bank is the perpetuation of a demographic policy that is has been ongoing for the last 67 years, triggered by multiple factors, including the demolition of homes and property; a discriminatory planning regime in Area C and East Jerusalem; evictions; the lack of secure residency status; access restrictions; settler violence; or any combination of these factors.

2015 has also witnessed a clear continuation of Israel's policy of forcible transfer of Palestinian communities throughout Area C of the West Bank, with Palestinian Bedouin villages on the Jerusalem periphery and others in the South Hebron Hills slated for demolition by the Israeli military. Notably Israel's plan to forcibly relocate the Palestinian Bedouin population from the West Bank Area C located to the East of occupied East Jerusalem into a designated "concentration site" in the Palestinian enclave (Area B) of 'Eizaria- Abu Dis', in order to enable the expansion of the Ma'aleh Adumim settlement bloc in the so-called E-1 area.[5]

These rapidly accelerating land confiscation and population transfer plans – underpinned by an inherently discriminatory legal system – represent a devastating social, cultural and economic blow to the thousands of Palestinians affected. Policies implemented in the West Bank are also creating an insecure environment for the fulfillment of the right to health. These policies prevent the development of an effective and sustainable health sector in the OPT severely undermining the right to health for Palestinians. Barriers to freedom of movement for Palestinians seeking Permits to leave for medical care, reduce treatment rates and create additional costs which are unsustainable for the Palestinian health sector

The forcible transfer of Palestinians is a precursor to the construction and expansion of Israeli settlements; an act which is recognized as a war crime.[6] This intention to follow the forced displacement of Palestinian communities with the implantation of Israeli settlers is clearly laid out in public statements from the highest echelons of Israeli government, and in Israel's relentless creation of 'facts on the ground', in turn leading to the de facto annexation of substantial parts of the West Bank.

Tangible intervention from the international community to put an end to Israel's unlawful settlement expansions and forced displacement of population remains inadequate. Palestinians have effectively been abandoned to await the next chapter in a history of forced displacement.

With a history of non-cooperation with UN-mandated bodies, Israel continues to actively undermine international human rights mechanisms, including the Human Rights Council. In 2009, Israel declined to cooperate with the HRC established Fact-finding Mission on the Gaza Conflict, despite repeated calls for engagement by the international community. Two years later in 2012, the UN Fact-finding Mission on Israeli Settlements was denied entry into the OPT. The Mission joined a list of UN experts, to whom Israel has also refused entry. This also includes non-cooperation with the 1968 UN Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories. More recently, Israel refused to facilitate a visit by the 2014 Gaza Commission of Inquiry (COI) to investigate incidents taking place in the OPT before, during and after Israel offensive operations in the West Bank and the Gaza Strip.

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[4] UN OCHA, Gaza Strip: Palestinian Internally Displaced persons (19 January 2015) available at Uhttp://unispal.un.org/UNISPAL.NSF/0/96766B5B350A192F85257E1A00497668#sthash.ykr6nrff.dpuf

[5] See UNRWA Press release May 20th 2015, available at http://www.unrwa.org/newsroom/press-releases/un-officials-israel-must-halt-plans-transfer-palestinian-bedouins

[6] Art. 8(2) (b) (viii) Rome Statute of 1998

In an effort to advance the work of the HRC, Israel must be condemned for its obstructive behavior in engaging with the UN. In allowing Israel to take lightly universal mechanisms established to ensure accountability and non-repetition of human rights abuses and international crimes, Member States of the HRC are jeopardizing their valuable work put forth as a community advocating for the advancement of human rights and justice.

International justice mechanisms, including the International Criminal Court, were established as complimentary to international human rights mechanisms and are meant to provide a necessary platform that addresses impunity for international crimes, and provide justice for victims. International accountability mechanisms are of dire need if national justice mechanisms are unable or unwilling to provide accountability. Israel, like other states, must respect these international mechanisms and must not be allowed to remain above the law.

The continuing wide range of flagrant abuses of rights perpetrated by Israel, coupled with the complete disregard to international mechanisms, must be met with a clear response from the UN member states adhering to their responsibility under International Law. Accordingly, we call on the HRC and members states to:

1. Condemn Israel's persistent non-cooperation with UN Mechanisms, including the COI and Special Procedures;

2. Take strong measures to bring to an end Israeli impunity and bring Israel to immediately lift the blockade of the Gaza Strip and cease collective punishment of Palestinians in the OPT, including East Jerusalem;

3. Fully support any findings of the COI that call on Israel to comply with IHL and IHRL rules and norms including the investigation of and accountability for all violations in accordance with international standards;

4. Reiterate that Israeli violations of IHL and IHRL are rooted in Israel's prolonged military occupation of the OPT. Declare that this regime of prolonged occupation, which its inherent features of racial discrimination and annexation, contradicts international law, thwarts the pursuit of self-determination and justice by the Palestinian people, and prevents a political solution based on two-states.

5. Accountability must be pursued for all violations of human rights and humanitarian law, including attacks on medical personnel and infrastructure, during the 2014 attacks on Gaza. In order to ensure non-repetition and give any hope for the development of a sustainable health sector in the OPT there must be no more impunity.

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*Civic Coalition for Palestinian Rights in Jerusalem , an NGO without consultative status, also shares the views expressed in this statement.